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IN THE UNITED STATES DISTRICT COURT

IN AND FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

ALPENTAL ENERGY PARTNERS, LLC,)	
)	
Plaintiff,)	DEFENDANT’S RESPONSE TO
)	PLAINTIFF’S RESPONSE TO
)	ORDER TO SHOW CAUSE
v.)	
)	Civil No. 2:12-cv-01060
RCM INTERNATIONAL, LLC,)	
)	The Honorable Dee Benson
Defendant.)	
)	
)	

As stated in Plaintiff Alpentel Energy Partners, LLC’s (“Alpentel”) Response to Order to Show Cause, the California Lawsuit is still pending and is set for trial in late August 2016.

Defendant RCM International, LLC (“RCM”), however, has not been the cause of the California Lawsuit’s unexpectedly long duration. The Superior Court for the State of California, Alameda Division (the “California Court”), originally set the California Lawsuit for trial in January 2015. The California Court first delayed the trial after RCM learned that Alpentel had made misleading discovery responses hiding the existence of an alter ego entity with a critical role in the litigation. Accordingly, RCM added the alter ego entity as a defendant. The newly added entity then removed the California Lawsuit to federal court while

a motion for discovery sanctions against Alpentel was pending. The federal court ultimately remanded the matter to the California Court after finding removal improper, in part because of the pending sanctions motion and in part because Alpentel and its alter ego entity “can properly be considered ‘part of the same operating entity.’” After remand, the new entity requested a continuance of the January 2015 trial date.¹

Contrary to Alpentel’s assertion, the California Court has never “found that RCM improperly delayed in disclosing certain information relative to its claims.” The Court did allow Alpentel extended discovery, and again continued the trial date at the request of the Alpentel parties for yet another year, in response to new damages theories RCM advanced *after* the California Court had already continued the January 2015 trial date due to the actions of the Alpentel parties.

Finally, neither the discovery of potentially liable entities affiliated with Alpentel nor any other “post-Order developments” or “disclosures in the California Lawsuit” affect this case’s posture. Although RCM added new defendants to the California Lawsuit, RCM did so because those entities, together with Alpentel, constitute a single business enterprise; the substantive claims and factual bases for the claims remain the same. Thus, the California Lawsuit and this matter are still parallel, and this Court’s order staying these proceedings until the California Lawsuit’s resolution continues to be justified and proper.

¹ On a side note, after remand the California Court did sanction Alpentel for inadequate discovery responses.

DATED this 25th day of April, 2016.

KIRTON McCONKIE

/s/ Brinton M. Wilkins

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 25th day of April, 2016, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which sent notification of such filing to the following:

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